

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1181**

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**Introduced by Assembly Member Butler**

February 18, 2011

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An act to amend Sections 12210.5, 12509, 12511.1, and 12512 of the Business and Professions Code, relating to weights and measures.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1181, as amended, Butler. Weights and measures.

Existing law makes it a crime for a person, firm, corporation, or association to advertise, solicit, or represent by any means a product for sale or purchase if it is intended to entice a consumer into a transaction different from that originally represented. When the sale of any commodity is based upon a quantity representation either furnished by the purchaser or obtained through the use of equipment supplied by the purchaser, the purchaser is prohibited from buying the commodity according to any quantity which is less than the true quantity. A violation of these provisions is a misdemeanor.

This bill would revise the latter provision by prohibiting the purchaser from buying the commodity according to any quantity which is less than the true quantity or computing the purchase price of the commodity according to a unit price that is less than the highest applicable price *per unit, that is advertised, posted, marked, displayed, or quoted* for the commodity. Because the bill would change the definition of a crime, the bill would impose a state-mandated local program.

Existing law also prohibits a person from engaging in business as a service agency for the repair of weights and measures, unless that person registers with the Secretary of Food and Agriculture, as specified.

This bill would make technical and conforming changes to related provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 12210.5 of the Business and Professions  
2     Code is amended to read:

3     12210.5. (a) Any county which inspects or tests any weighing  
4     or measuring device or instrument used commercially, at the  
5     request of the owner or user of that device, when inspection or  
6     testing of the device could legally be performed by a registered  
7     service agency, as defined in Section 12531, may, if authorized  
8     by the county board of supervisors, collect from the requesting  
9     owner or user thereof a fee.

10    (b) That fee shall be based upon a uniform schedule of fees,  
11    which shall be prescribed by the secretary for use by the counties.  
12    The secretary shall prepare the schedule of fees to be comparable  
13    with the rates charged by the industry's registered ~~repairmen~~  
14    service agencies. All fees collected shall be credited to the general  
15    fund of the county in which collected and used only for the  
16    administration and enforcement of laws pertaining to weights and  
17    measures.

18    SEC. 2. Section 12509 of the Business and Professions Code  
19    is amended to read:

20    12509. (a) When any weight, measure, or weighing or  
21    measuring instrument has been repaired and corrected, and has  
22    been reinspected and found correct, the sealer shall remove the  
23    tag or device with the words "out of order," and shall seal and  
24    mark that weight, measure, or weighing or measuring instrument

1 in the manner provided for the marking of the same where, upon  
2 inspection, it is found correct.

3 (b) Upon completion of corrective repairs or adjustments, and  
4 with the authorization from the sealer, a registered service agency,  
5 as defined in Section 12531, may remove an “out of order” tag or  
6 device, and the weight, measure, or weighing or measuring  
7 instrument may be placed in service pending reinspection by the  
8 sealer.

9 SEC. 3. Section 12511.1 of the Business and Professions Code  
10 is amended to read:

11 12511.1. Notwithstanding any other provisions of this division,  
12 any weight or measure, or weighing or measuring instrument,  
13 found correct or corrected by a registered service agency, as defined  
14 in Section 12531, authorized pursuant to Section 12509, may be  
15 used commercially pending reinspection by a sealer.

16 SEC. 4. Section 12512 of the Business and Professions Code  
17 is amended to read:

18 12512. When the sale of any commodity is based upon a  
19 quantity representation either furnished by the purchaser or  
20 obtained through the use of equipment supplied by the purchaser,  
21 the purchaser shall in no case buy the commodity according to any  
22 quantity which is less than the true quantity or compute the  
23 purchase price of the commodity according to a unit price that is  
24 less than the highest applicable price *per unit, that is advertised,*  
25 *posted, marked, displayed, or quoted* for the commodity. Violation  
26 of this section is a misdemeanor.

27 SEC. 5. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.